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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

NATIONAL INTERSTATE INSURANCE
COMPANY,

Plaintiff,

v.

ACCEPTANCE CASUALTY INSURANCE
COMPANY,

Defendant.

Case No. **2:22-CV-02127-TLN-KJN**

**JOINT STIPULATED APPLICATION
AND ORDER FOR 60 DAY STAY OF
LITIGATION PENDING ARBITRATION**

Complaint Filed: November 29, 2022

Plaintiff National Interstate Insurance Company (“NIIC”) and Defendant Acceptance
Casualty Insurance Company (“ACIC”), by and through their attorneys of record (together, the
“Parties”), hereby stipulate to the following:

1 On November 29, 2022, NIIC filed a complaint in the United States District Court for the
2 Eastern District of California, Sacramento Division, commencing this litigation alleging claims for
3 breach of contract, and breach of the implied covenant of good faith and fair dealing, and seeking
4 equitable indemnity, equitable subrogation, and declaratory relief against ACIC.

5 On February 2, 2023, this Court entered its Initial Pretrial Scheduling Order.

6 On October 3, 2023, the Parties stipulated to, and this Court granted, a 90-day stay of
7 proceedings¹ so that the Parties could negotiate informally, as well as a 90-day extension of all
8 deadlines set forth in the Court's February 2, 2023 Scheduling Order. The Parties subsequently
9 engaged informally, and following the expiration of the 90-day stay of proceedings on January 1,
10 2024, engaged in private mediation. To date, the Parties have not reached a resolution of this matter.
11 *See*, ECF #24.

12 At present, and consistent with the Court's February 2, 2023 Pretrial Scheduling Order, as
13 well as the October 3, 2023 stay of proceedings, discovery remains ongoing.

14 The Parties have now reached an agreement in principle to seek a resolution of this matter
15 through private binding arbitration. However, no pre-existing arbitration clause or provision exists
16 between or governs the Parties with respect to arbitration procedure, and the Parties are currently
17 engaged in negotiations regarding the terms and conditions under which a private arbitration
18 between them will take place. For this reason, the Parties require additional time to negotiate a
19 binding arbitration agreement between them, to make arrangements for the retention of an
20 appropriate arbitrator or arbitrators, and to schedule an arbitration between them.

21 Accordingly, the Parties have agreed between themselves and hereby request that the Court
22 enter a further 60-day stay of proceedings in this matter to permit the Parties to negotiate the terms
23 of an appropriate binding arbitration agreement between themselves, as well as to make
24 arrangements for such arbitration, without prejudice to their discovery rights in this action.

25 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the
26 _____

27 ¹ Prior to the entrance of this Court's February 2, 2023 Initial Pretrial Scheduling Order, the Parties
28 requested and this Court granted two extensions of time for ACIC to respond to the Complaint. *See*,
ECF #7-10.

Parties, who hereby apply for the Court's approval, as follows:

1. The Parties agree to a 60-day stay of the present litigation to permit them to engage in the negotiation and drafting of an arbitration agreement between them, to retain an arbitrator or arbitrators pursuant to that agreement, and to schedule an arbitration of the present dispute;

2. During the course of the stay, the Parties will negotiate and draft of a binding arbitration agreement between them, retain an arbitrator or arbitrators pursuant to that agreement, and schedule an arbitration of the present dispute;

3. Once the Parties reach a binding agreement to arbitrate, the Parties will promptly notify the Court;

4. If the Parties do not reach a binding agreement to arbitrate, the Parties will provide the Court with a Status Report concerning their efforts no later than 55 days after the entry of an Order granting a stay of proceedings, and 5 days before the expiration of the presently requested stay;

5. The Parties otherwise preserve all claims, defenses, objections, and legal arguments they have or potentially have in the litigation;

6. This stipulation and proposed order shall not in any way affect or impact the Parties' claims, defenses, objections, or arguments.

IT IS SO STIPULATED.

Dated: April 3, 2024

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By: /s/ Nicholas H. Rasmussen

Nicholas H. Rasmussen

Graham A. Van Leuven

Attorneys for NATIONAL INTERSTATE
INSURANCE COMPANY

1 Dated: April 3, 2024

HINSHAW & CULBERTSON LLP

2
3 By: /s/ Robert G. Levy (per 4-3-24 authorization)

4 Robert J. Romero

Peter J. Felsenfeld

Robert G. Levy

5 Attorneys for ACCEPTANCE CASUALTY
6 INSURANCE COMPANY
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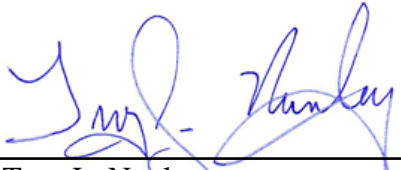
ORDER

The Court has considered the foregoing stipulation and the facts set forth therein, and **FOR
GOOD CAUSE APPEARING:**

1. The Parties' request for a 60 day stay of proceedings is **GRANTED;**
2. The Parties shall promptly report to the Court if a binding arbitration agreement is reached between them; and
3. If no binding agreement to arbitrate has been reached between them, the Parties shall provide the Court with a Status Report concerning their efforts no later than five (5) days prior to the expiration of the stay granted herein.

IT IS SO ORDERED.

Dated: April 3, 2024


Troy L. Nunley
United States District Judge